

**Notice of Allowability**

Application No.

10/743,982

Applicant(s)

Kopelman et al.

Examiner

O'Connor

Art Unit

3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to RCE of 3/9/07 and Amdt of 1/11/07.
2. ☒ The allowed claim(s) is/are 1-14 and 17-22.
3. ☒ The drawings filed on December 22, 2003 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |   |   |
|---|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)  | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)           |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                | 6. <input type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date _____ |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br>Paper No./Mail Date _____ | 7. <input type="checkbox"/> Examiner's Amendment/Comment                              |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material          | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance  |
|   | 9. <input type="checkbox"/> Other _____   |

## DETAILED ACTION

### *Allowable Subject Matter*

1. The following is an examiner's statement of reasons for allowance:

The closest prior art, Nahan et al. (US 5,664,111), discloses a computer-implemented method for pricing goods of independent sellers using a marketer controller communicating via a communications network, the marketer controller including a CPU and a memory, the method comprising the marketer controller: receiving from an independent seller, via the communications network, data identifying the independent seller's good; presenting to the independent seller a menu including plurality of selectable options, each of the options corresponding to a respective predetermined method for deriving a sale price for the independent seller's good; deriving the sale price at which a buyer may purchase the independent seller's good using the predetermined method corresponding to a seller-selected option; and, displaying the derived sale price to the buyer to present the good for sale at the sale price

However, the Nahan et al. reference fails to disclose, or fairly suggest, the marketer controller computer receiving selection data from the independent seller, the selection data having been transmitted in electronic form to the marketer controller computer via the communications network, the selection data identifying a certain selected option selected from the menu by the independent seller; the marketer controller computer deriving the sale price by performing a function in accordance with logic specified by a certain respective method corresponding to the certain selected option selected from the menu by the independent seller;

and the marketeer controller computer transmitting sale price data to the computerized device operated by the independent seller, the sale price data being transmitted in electronic form via the communications network and causing the computerized device operated by the independent seller to display to the buyer, via the display device, displaying the derived sale price to present the good to the buyer as an item offered for sale at the sale price.

2. Note that, though expressly included in the search for prior art, no foreign patents, nor any non-patent literature were identified that could reasonably be considered sufficiently relevant or pertinent so as to be characterized and addressed as “closest prior art.”

3. Any comments considered necessary by applicant must be submitted no later than payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled “Comments on Statement of Reasons for Allowance.”

4. PLEASE TAKE NOTICE, that failure by the examiner to respond to any such statement commenting on reasons for allowance does not give rise to any implication. See 37 CFR § 1.104(e).

5. Likewise, failure of applicant to comment on the examiner’s statement of reasons for allowance should not be treated as acquiescence to the examiner’s statement. *Salazar v. Procter & Gamble Co.*, 414 F.3d 1342, 1347, 75 USPQ2d 1369, 1373 (Fed. Cir. 2005). See MPEP § 1302.14(V).

***Conclusion***

6. Any inquiry concerning this communication, or earlier communications, should be directed to the examiner, **Jerry O'Connor**, whose telephone number is **(571) 272-6787**, and whose facsimile number is **(571) 273-6787**.

Official replies to this Office action may now be submitted electronically by registered users of the EFS-Web system. Information on EFS-Web tools is available on the Internet at: <http://www.uspto.gov/ebc/portal/tools.htm>. An EFS-Web Quick-Start Guide is available at: <http://www.uspto.gov/ebc/portal/efs/quick-start.pdf>.

Alternatively, official replies to this Office action may still be submitted by any *one* of fax, mail, or hand delivery. **Faxed replies should be directed to the central fax at (571) 273-8300.** Mailed replies should be addressed to "Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450." Hand delivered replies should be delivered to the "Customer Service Window, Randolph Building, 401 Dulany Street, Alexandria, VA 22314."

GJOC

June 20, 2007

A handwritten signature in black ink, appearing to read 'G. O'Connor', followed by the date '6/20/07' written in a similar cursive style.

Gerald J. O'Connor  
Primary Examiner  
Group Art Unit 3627